

REMARKS/ARGUMENTS

Claims 47-50, 78-80, 128-130 and 132-146 are pending. By this Amendment, claims 128, 132-134, 136 and 137 are amended, and claims 75-77 and 131 are canceled.

Reconsideration in view of the above amendments and the following remarks is respectfully requested.

In paragraph 1, the drawings were objected to under 37 CFR 1.83(a) as allegedly failing to show "the variable projected area of the gusset". In a related matter, claims 47, 70 and 137 were rejected under 35 U.S.C. §112, first paragraph, based on failure to comply with the written description requirement. This objection and rejection are respectfully traversed.

For example, as shown in Figure 10, the area of the gusset A_g is variable in dependence of the distance X , which is a measure of displacement of the frame toward the patient's face. As the frame 20 moves towards the patient's face, i.e., X_p becomes smaller, the gusset 33 extends outwardly such that the gusset area A_g increases. Accordingly, the gusset area A_g which projects on the user's face is variable with changes in distance X .

Reconsideration and withdrawal of the objection to the drawings and the rejection of the claims is respectfully requested.

Claims 47-50, 75-80, 125-130, 137-139 and 143-146 were rejected under 35 U.S.C. §103(a) over Venegas. This rejection is respectfully traversed.

Claim 47 is directed to a breathable gas mask arrangement comprising, *inter alia*, a gusset portion having a projected area on the user's face A_g which is greater than an area A_c of contact of the cushion with the user's face, wherein the projected area of the gusset is variable in accordance with alterations of the distance between the mask shell and the cushion.

According to the Office Action (page 4), Venegas teaches a projected area that is variable since Figure 4 of Venegas illustrates a gusset "...to have pleats some of which extend inwardly when not exposed to pressurized gas and the relative position of the crests of the inwardly extending pleats relative to the crests of the outwardly extending pleats projects a smaller area onto the wearer's face". Applicants respectfully traverse this assertion. While it is true that Venegas teaches pleats, the relative compressive state of these pleats does not affect the projected area of the gusset on the user's face. In particular, Venegas' projected area is constant since the projected area on the user's face is defined not by the extent of the pleats but by a wall member indicated at 32 in Figure 4. Moreover, the wall portion 32 projects on the user's face; the gusset portion does not project on the user's face. The lateral extent of the wall portion 32 defines the projected area on the patient's face, which is constant in Venegas, not "variable" as recited in claim 47. The relative extent of the crest of the Venegas pleats does not affect the effective projected area on the user's face.

Claims 48-50 and 125-127 are patentable by virtue of their dependency on claim 47, in addition to the further features they recite.

It is noted that claims 75-77 are canceled, thereby rendering that portion of the rejection moot.

With regard to independent claim 78, Venegas does not teach or suggest a suspension mechanism attached to the mask shell axially movably supporting the cushion and having a second variable projected area on the user's face greater than the first projected area on the face by at least thirty percent. As discussed above, Venegas' "gusset" does not have a variable projected area on the user's face. Dependent claims 79 and 80 are patentable by virtue of their dependency on claim 78, in addition to the further features they recite.

With regard to independent claim 128, the subject matter of objected to claim 131 has been incorporated therein, thereby placing claim 128 into allowable form. Applicants have removed language from claim 128 to increase scope of coverage, as the removed material is not thought to be material to the reasons why claim 131 was considered allowable. Dependent claims 132, 133, 134 and 136 have also been placed into independent form (again, without some features of claim 128), in accordance with the indication that these claims patentably distinguish over the prior art.

With regard to independent claim 137, Venegas does not teach or suggest a breathable gas mask arrangement including a gusset in which the gusset defines a projected area on the user's face that is variable in dependence on the distance between the mask shell and the cushion. Venegas does not teach a gusset portion having a projected area that is variable on the user's face. As mentioned above, the Venegas pleats do not have a projected area on the user's face. Rather, it is static portion 32 which projects on the user's face, and this projected area is constant, not variable as claimed. Moreover, it is irrelevant whether the crests of the pleats vary in a lateral sense, because the pleats do not have a projected area on the user's face.

Reconsideration and withdrawal of the rejections are respectfully requested.

Applicants appreciate the indication that claims 131-136 and 140-142 would be allowable if rewritten into independent form. As discussed above, several of these claims have been so rewritten, but Applicants respectfully submit that all the claims define patentable subject matter and that the entire application is in condition for allowance.


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Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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